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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,250	12/21/2000	Dimitris Katsamberis	60,137-162	9508
26096	7590	08/19/2004	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			PIZIALI, ANDREW T	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/747,250

Applicant(s)

KATSAMBERIS ET AL.

Examiner

Andrew T Piziali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 8-11 and 16-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-4, 9-11, 16-21 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 22-32 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendment filed on 6/30/2004 has been entered. The examiner has withdrawn the claim rejections and claim objections of claims 5-6 and 12-13 based on the cancellation of these claims.

Election/Restrictions

2. The applicant traverses the election by original presentation presented in the Office Action mailed 3/31/2004. The traversal is on the grounds that the non-elected claims are not drawn to an invention independent of the invention previously claimed. The applicant asserts that because original claim 1 was generic, the claims cannot be directed to an independent invention. This is not found persuasive because MPEP 806.04 states "If it can be shown that the two or more inventions are in fact independent, applicant should be required to restrict the claims presented to but one of such independent inventions. For example:...(C) Where species under a genus are independent, for example, a genus of paper clips having species differing in the manner in which a section of the wire is formed in order to achieve a greater increase in its holding power."

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 22-24, 26-28, 30-32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,132,889 to Welty et al. (hereinafter referred to as Welty) in view of USPN 6,154,311 to Simmons, Jr. et al. (hereinafter referred to as Simmons Jr.)

Regarding claims 8, 22-24, 26-28, 30-32 and 34, Welty discloses an article (column 1, lines 9-26) having on at least a portion of a surface a multi-layer coating (column 1, lines 42-64) comprising a nickel layer with a refractory metal layer deposited on the nickel layer. A refractory metal compound layer, such as zirconium nitride or titanium nitride (column 4, lines 34-48), is deposited on the refractory metal layer. Deposited on the refractory metal compound layer is a layer comprised of a refractory metal oxide, refractory metal alloy oxide, or the reaction products of a refractory metal or refractory metal alloy, oxygen and nitrogen (column 5, lines 11-48).

Welty discloses that the nickel layer provides improved corrosion protection and functions as a leveling layer that tends to cover or fill in imperfections on the substrate (column 3, lines 23-48). Welty does not mention a polymer layer, but Simmons Jr. discloses the use of a polymer layer, in place of a nickel layer, in articles such as faucets, to provide improved corrosion resistance and to level substrates by forming a smooth hard surface (column 2, lines 9-45 and column 6, lines 15-44). It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the nickel layer of Welty, with a polymer layer, as taught by Simmons Jr., because the polymer layer provides a viable alternative to electroplating in addition to providing corrosion resistance while leveling a substrate by forming a smooth hard surface.

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Regarding claim 28, Welty discloses that the color and protective layer may provide a brass color (column 1, lines 29-41 and column 4, lines 49-54).

Regarding claims 30-31, Welty discloses that the article may be a faucet or doorknob (column 1, lines 9-26).

Regarding claim 32, Welty discloses that the electroplated layer may be directly on the surface of the article (column 2, lines 24-59).

Regarding claim 34, Welty discloses that the layer comprised of the reaction products of a refractory metal or refractory metal alloy, oxygen and nitrogen may be directly on the color layer (column 5, lines 11-48).

5. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welty in view of Simmons Jr. as applied to claims 8, 22-24, 26-28, 30-32 and 34 above, and further in view of USPN 4,143,009 to Dewey.

Simmons Jr. does not specifically mention using an epoxy urethane as the polymer layer, but Dewey discloses that a polymer comprising epoxy urethane is generally tough, hard, and rigid (column 3, lines 21-32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to select epoxy urethane as the polymeric base coat material, because epoxy urethane is a suitable polymer capable of forming a smooth hard surface over the covered article.

6. Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welty in view of Simmons Jr. as applied to claims 8, 22-24, 26-28, 30-32 and 34 above, and further in view of USPN 6,196,936 to Meckel.

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Welty discloses that the color and protective layer may have any desired color (column 4, lines 48-54), but fails to specifically mention nickel color. Meckel discloses refractory metal nitrides, such as chromium nitride and di-titanium nitride, and a refractory metal alloy nitride, titanium aluminum nitride, having the appearance of silver or lustrous gray (column 8, lines 2-15). Silver, lustrous gray, and nickel colors are essentially the same. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use one of the refractory metal compounds or refractory metal alloy compounds of Meckel as the color and protective layer of Welty, because such a material selection would achieve a commercially desirable conventional nickel color faucet finish. The examiner takes Official Notice that faucets with the finishes of brass and nickel are obvious alternative finishes in the faucet art.

Response to Arguments

7. Applicant's arguments filed 6/30/2004 have been fully considered but they are not persuasive.

The applicant asserts that Simmons Jr. is nonanalogous art. The examiner respectfully disagrees. It has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Simmons Jr. is in the field of applicant's endeavor, which is decorative articles such as faucets, and Simmons Jr. is more than reasonably pertinent to the particular problem with which the applicant was concerned, which is providing improved corrosion resistance and to level substrates by forming a smooth hard surface.

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The applicant asserts that there is no suggestion or motivation to replace the nickel layer of Welty with a polymer layer. The examiner respectfully disagrees. Although Welty does not mention a polymer layer, Simmons Jr. discloses the use of a polymer layer, in place of a nickel layer, in articles such as faucets, to provide improved corrosion resistance and to level substrates by forming a smooth hard surface (column 2, lines 9-45 and column 6, lines 15-44). It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the nickel layer of Welty, with a polymer layer, as taught by Simmons Jr., because the polymer layer provides a viable alternative to electroplating in addition to providing corrosion resistance while leveling a substrate by forming a smooth hard surface.

The applicant asserts that Simmons Jr. fails to teach that a polymer layer is functionally equivalent to a nickel layer. The examiner respectfully disagrees. Simmons Jr. discloses the use of a polymer layer, in place of a nickel layer, in applications such as faucets, to provide improved corrosion resistance and to level substrates by forming a smooth hard surface (column 2, lines 9-45 and column 6, lines 15-44). Specifically, Simmons Jr. teaches that a polymer layer may “replace” an electroplated nickel layer (column 6, lines 29-44).

The applicant asserts that Dewey is nonanalogous art. The examiner respectfully disagrees. It has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Dewey is reasonably pertinent to the particular problem with which the applicant was concerned. The problem with which the applicant was concerned was determining which polymer basecoat

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material possesses the desired material characteristics of a basecoat layer used on an article such as a faucet. Simmons Jr. discloses the use of a polymer layer, in place of a nickel layer, in applications such as faucets, to provide improved corrosion resistance and to level substrates by forming a smooth hard surface (column 2, lines 9-45 and column 6, lines 15-44). Considering that Dewy teaches that a polymer comprised of epoxy-urethane may be used in a number of applications, including as a coating (column 1, lines 5-20 and lines 54-68), and that epoxy-urethane is an extremely tough, hard, and rigid polymer material (column 3, lines 21-32), Dewey is pertinent to the particular problem with which the applicant was concerned which is selecting a polymer with the desired material characteristics to function as a basecoat layer of an article such as a faucet.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T Piziali whose telephone number is (571) 272-1541. The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

atp

gtp 8/11/04
ANDREW T. PIZIALI
PATENT EXAMINER

Elizabeth M. Cole
ELIZABETH M. COLE
PRIMARY EXAMINER